

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MUSHTAQ AHMAD,

Plaintiff,

- against -

NEW YORK CITY DEPARTMENT OF EDUCATION (DOE); UNITED FEDERATION OF TEACHERS (UFT); NEW YORK STATE UNITED TEACHERS (NYSUT); CARMEN FARIÑA, the Chancellor of the NYCDOE, in her official capacity; MICHAEL PRAYOR, Superintendent of the Brooklyn Schools in District 73, in his individual and official capacity; JAMES OLEARCHIK, the Principal of the School of Democracy and Leadership (SDL), in his individual and official capacity; CATRINA WILLIAMS, Assistant Principal of SDL, in her individual and official capacity; CEDRIC HALL, the Principal of the Eagle Academy for Young Men III (29Q327) Queens, in his official capacity; BENJAMIN GROSSMAN, the Principal of Bronx Academy for Software Engineering (BASE) Bronx, in his official capacity; KATHERINE G. RODI, Director of DOE's Office of Employee Relations, in her official and individual capacity; KELLY HOUSTON, Science Chairperson/Teacher of SDL, in her official and individual capacity; JULIA FINDLEY, Teacher and a Delegate to UFT or NYSUT Delegate Assembly, in her individual and official capacity; JOHN DOES 1-3; and JANE DOES 1-3,

Defendants.
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1:18-cv-03494 (WFK)(LB)

**DECLARATION OF
MICHAEL J. DEL PIANO IN
SUPPORT OF UNION
DEFENDANTS' MOTION
TO DISMISS THE
COMPLAINT**

MICHAEL J. DEL PIANO, pursuant to 28 U.S.C. § 1746, declares under the penalty of perjury that the following is true and correct:

1. I am an attorney admitted to practice law before the courts of the State of New York and this Court.

2. I am of counsel to Robert T. Reilly, attorney for defendants United Federation of Teachers ("UFT") and New York State United Teachers ("NYSUT") (collectively "Union

Defendants”). I am fully familiar with the facts of this matter based upon my review of the file and conversations with representatives of UFT and NYSUT.

3. I submit this declaration in support of Union Defendant’s motion to dismiss the complaint by plaintiff Mushtaq Ahmad (“Plaintiff”) under Fed. R. Civ. Pro. Rules 12(b)(1) and (6).

4. NYSUT is an unincorporated association existing pursuant to the N.Y. General Associations Law that is comprised of over 1,200 local affiliates representing over 600,000 in-service and retired teachers, school related professionals, and other employees in the State of New York.

5. UFT is an unincorporated association existing pursuant to the N.Y. General Associations Law.

6. UFT is also is also an employee organization pursuant to the New York Public Employees’ Fair Employment Act, N.Y. Civ. Serv. Law §§ 200, *et seq.* (“Taylor Law”) and is the exclusive bargaining representative for, among other positions, all classroom teachers employed by the Board of Education of the City School District of the City of New York, also known as the New York City Department of Education (“Department”).

7. UFT has approximately 183,000 in-service and retired members.

8. UFT is a local affiliate of NYSUT.

9. NYSUT and UFT are separate and distinct legal entities.

10. A true and accurate copy of the Complaint (Dkt. No. 1) is attached hereto as Exhibit “A”.

11. A true and accurate copy of the Charge of Discrimination filed by Plaintiff with the United States Equal Employment Opportunity Commission (“EEOC”) against, in part, UFT, under EEOC Charge No. 520-2017-02916, is attached as Exhibit “B”.

12. UFT and the Department were parties to a collective bargaining agreement (“CBA”) from November 1, 2009 through November 20, 2018. A copy of the CBA is attached as Exhibit “C.”

13. Upon information and belief, Plaintiff failed to file a Charge of Discrimination against NYSUT with the EEOC or any state or local equivalent that pertained to the matters alleged in the Complaint.

14. Upon information and belief, Plaintiff never obtained a Dismissal and Notice of Rights from the EEOC against NYSUT that pertained to the matters alleged herein.

WHEREFORE, based upon the foregoing, and for the reasons stated in the accompanying Memorandum of Law in Support of Union Defendant’s Motion to Dismiss, I respectfully request that the Court dismiss the complaint in its entirety, and for such other and further relief the Court deems just and proper.

Dated: New York, New York
March 15, 2019

/s/ Michael J. Del Piano
Michael J. Del Piano